

## OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 35

OCTOBER 8, 1979

**SUBJECT: USE OF ELECTRONIC SURVEILLANCE EQUIPMENT**

**PURPOSE:** Electronic surveillance equipment has become an important tool of law enforcement and its use has broadened the investigative capabilities of this Department. While these increased capabilities have assisted law enforcement, the additional legal and technical constraints imposed by the use of electronic surveillance equipment have increased the need for strict controls over equipment usage. State and federal laws protect a citizen's right to privacy. Because of the nature of electronic surveillance equipment and the sensitivity of the investigations for which it is used, Department employees must be fully aware of the laws governing the use of this equipment. To ensure proper training and effective controls regarding Departmental use of electronic surveillance equipment, new procedures have been established.

**PROCEDURE:**

- I. **ELECTRONIC SURVEILLANCE EQUIPMENT—DEFINED.** Electronic surveillance equipment is that apparatus used to detect, locate, observe, photograph, record or intercept information about persons under Department investigation without their knowledge.

Electronic surveillance equipment is divided into two categories:

- \* **Restricted Items.** Restricted items normally include all electronic surveillance equipment designated or adapted for concealed use. Included are items such as: Transmitters capable of being concealed in an automobile, room or telephone; body transmitters; miniature recorders; and receivers and recorders when used with hidden transmitters. Tracking or tailing devices and other non-visual equipment are also restricted items. Use of restricted electronic surveillance equipment requires authorization of a command or staff officer.

**NOTE:** With the exception of miniature recorders, on-duty employees shall not possess or use privately owned restricted electronic surveillance equipment. When used, privately owned miniature recorders are subject to the same authorization requirements as other restricted items.

- \* **Discretionary Items.** Discretionary items are those items not specifically designed for concealed use but which can be used in a concealed manner. When used for such purposes, discretionary items temporarily become restricted items of electronic surveillance equipment and, as such, their use is controlled. Discretionary items include tape recorders, induction coils, hand-held radio transceivers, T.V. cameras.

- II. **ELECTRONIC SURVEILLANCE EQUIPMENT INVENTORY CARD, FORM 12.42—ACTIVATED.** The Electronic Surveillance Equipment Inventory Card, Form 12.42, is activated. This form shall be used by Scientific Investigation Division personnel to inventory all electronic surveillance equipment under the control of this Department.
- III. **AUTHORIZATION TO USE RESTRICTED ELECTRONIC SURVEILLANCE EQUIPMENT, FORM 12.41—ACTIVATED.** The Authorization to Use Restricted Electronic Surveillance Equipment, Form 12.41, is activated. This form shall be used for *all* requests to use restricted electronic surveillance equipment and *all* requests to use discretionary equipment as restricted items.
- IV. **GRANTING AUTHORIZATION.** Authorization to use restricted electronic surveillance equipment shall be granted only by a commanding officer of the rank of captain or

DISTRIBUTION "A"



above. All authorizations shall be granted only for the purpose and length of time specified in the Authorization to use Restricted Electronic Surveillance Equipment, Form 12.41.

**V. EMPLOYEES USING RESTRICTED ELECTRONIC SURVEILLANCE EQUIPMENT—RESPONSIBILITIES.** Employees requesting use of restricted electronic surveillance equipment shall:

- A. **Obtain Authorization.** Employees shall obtain proper authorization prior to using restricted electronic surveillance equipment.
- B. **Complete Training.** Prior to using electronic surveillance equipment, employees shall satisfactorily complete required training.
- C. **Provide Security.** All employees using electronic surveillance equipment shall provide security for the equipment while it is in their possession.
- D. **Return Equipment.** Ensure that the equipment is safely returned to the assigned unit as soon as possible after the equipment's usage.

**VI. OBTAINING AUTHORIZATION.** The following procedure shall be used when requesting authorization to use restricted electronic surveillance equipment.

- A. **Investigating Officers.** Investigating officers who require the use of restricted surveillance equipment shall complete the top portion of an Authorization to Use Restricted Electronic Surveillance Equipment, Form 12.41, and submit the form to a supervisor for approval.
- B. **Supervisor.** A supervisor who receives a Form 12.41 from investigating officer(s) shall review the request and discuss the intended use of the equipment with the investigating officer(s). If the supervisor approves the request he shall cause the Form 12.41 to be submitted either to his commanding officer or, if the commanding officer is unavailable and immediate authorization is required, directly to a staff officer.

**NOTE:** When exigent circumstances exist, the Watch Commander, Detective Headquarters Division, may be contacted for assistance in locating a *staff* officer. Staff officers may grant telephonic authorization to use restricted electronic surveillance equipment, when the circumstances of the situation do not allow for approval through normal channels. When telephonic approval is granted, the name of the approving staff officer shall be printed on the line where the commanding or staff officer would normally sign and the notation "telephonic" shall be placed next to the staff officer's name.

- C. **Command or Staff Officers.** The concerned command or staff officer shall review all requests for authorization to use restricted electronic surveillance equipment. If the command or staff officer agrees with the proposed equipment usage he shall sign the form in the appropriate section.

**NOTE:** Command and staff officers shall not delegate their authority to authorize the use of restricted electronic surveillance equipment.

**VII. REVIEW.** Upon completion of the investigation and return of the equipment, the concerned command officer *and* a staff officer shall review the Authorization to Use Restricted Electronic Surveillance Equipment, Form 12.41.

- A. **Commanding Officer's Responsibility.** The commanding officer reviewing the restricted electronic surveillance equipment usage shall:

DISTRIBUTION "A"



1. Evaluate the equipment usage for its compliance with all the aspects of technical, legal and procedural requirements for the use of restricted electronic surveillance equipment. Appropriate comments, if any shall be made in the "After Action Evaluation" portion of the Form.
  2. Determine if the equipment was used as authorized. Whenever modifications or deviations are noted they shall be explained in the "After Action Evaluation."
  3. Ensure that serial numbers of any tape(s) used, and the date and time the equipment was returned to the issuing unit, are recorded in the appropriate sections of the "After Action Evaluation."
  4. Certify that a review of the equipment usage has been conducted by signing the "After Action Evaluation" section of the Form 12.41.
  5. Cause the form 12.41 to be delivered to the concerned staff officer for review.
- B. **Staff Officer's Responsibility.** The staff officer reviewing the use of restricted electronic surveillance equipment shall:
1. Ensure that the concerned commanding officer has reviewed the Form 12.41 and properly evaluated the technical, legal and procedural aspects of the equipment usage.
  2. Document his review of the equipment usage by signing and dating the Form 12.41.
  3. Forward a copy of the completed Form 12.41 to the Director, Office of Special Services.
- C. **Director, Office of Special Services—Responsibility.** The Director, Office of Special Services, shall review all uses of restricted electronic surveillance equipment and shall be responsible for the following special duties relating to the use of such equipment:
1. Maintaining a file of all approved authorizations to use restricted electronic surveillance equipment, Form 12.41.
  2. Keeping the Chief of Police informed of any special problems or situations arising from electronic surveillance equipment usage.

VIII. **SURVEILLANCE EQUIPMENT CONTROL RESPONSIBILITIES.** Responsibility for control of electronic surveillance equipment rests with three organizational entities; the unit to which the equipment is assigned, the unit using the equipment, and Scientific Investigation Division.

- A. **Unit to Which Equipment is Assigned—Responsibility.** The commanding officer of every unit which maintains and uses electronic surveillance equipment shall be responsible for:
1. Maintaining control over issuance of all electronic surveillance equipment assigned to the unit. Form 12.42 may be used for this purpose.
  2. Determining if persons requesting the loan of electronic surveillance equipment are sufficiently qualified to properly use the equipment.
  3. Maintaining, in proper working order, all electronic surveillance equipment assigned to the unit.
  4. Ensuring that his personnel have been properly trained prior to using electronic surveillance equipment. Such training shall encompass technical, legal and operational aspects of equipment usage.



**NOTE:** The commanding officer of every unit which frequently uses or regularly maintains electronic surveillance equipment shall appoint a minimum of two officers to act as unit electronic surveillance equipment coordinators. Officers appointed to this position shall perform these duties in addition to their regular assignment. Officers in this assignment shall have their days off and vacation scheduled so that one coordinator is always available during the unit's normal duty hours.

- B. **Unit Using Equipment—Responsibility.** The commanding officer of every unit using electronic surveillance equipment shall:
1. Ensure that all officers using equipment are trained in the technical, legal and operational aspects of electronic surveillance equipment usage.
  2. Ensure that each use of restricted electronic surveillance equipment is documented by a completed and approved Authorization to Use Restricted Electronic Surveillance Equipment, Form 12.41.
  3. Ensure that the equipment, while it is in the possession of his unit, is adequately secured and that it is afforded care and maintenance to ensure its continued operation.
  4. Ensure that all equipment is returned to the assigned unit as soon as possible.
  5. Ensure that whenever possible, all equipment installation and usage is completed in the presence of a supervisor.
- C. **Scientific Investigation Division—Responsibilities.** The Commanding Officer, Scientific Investigation Division, shall be responsible for the following duties and functions related to all electronic surveillance equipment:
1. Functionally supervising the mechanical or technical aspects of all electronic surveillance equipment usage within the Department.
  2. Approving all replacement equipment for technical standards.
  3. Maintaining inventory records for all Department electronic surveillance equipment. Form 12.42 shall be used for this purpose.
  4. Coordinating annual maintenance inspections and physical inventories conducted at the direction of each bureau commanding officer, and providing Scientific Investigation Division assistance in such inspections and inventories.
  5. Reviewing all budget and grant requests for electronic surveillance equipment and all purchases of such equipment, including component parts and attachments, to ensure Department-wide compatibility.
  6. Inspecting all newly-acquired equipment prior to its delivery to the requesting unit and inspecting all unserviceable equipment prior to its delivery to Supply Division for disposal.

**IX. SURVEILLANCE EQUIPMENT TRAINING RESPONSIBILITIES.** Training in the technical, legal and operational use of electronic surveillance equipment shall be the combined responsibility of the Commanding Officer, Training Division, and the commanding officer of any unit using electronic surveillance equipment.

The Commanding Officer, Training Division, shall be responsible for:

- \* Developing a comprehensive training program to instruct members of this Department in the technical, legal and operational aspects of electronic surveillance equipment usage.

DISTRIBUTION "A"



OCTOBER 8, 1979

- \* Incorporating electronic surveillance equipment training into Department schools for Vice and Narcotics Officers, Investigators, Sergeants, Lieutenants and Captains.

X. **ELECTRONIC SURVEILLANCE EQUIPMENT INVENTORY CARD, FORM 12.42—DISTRIBUTION.** This form shall be completed and retained by Scientific Investigation Division, Electronics Section, as an inventory control for all items of electronic surveillance equipment.

XI. **AUTHORIZATION TO USE RESTRICTED ELECTRONIC SURVEILLANCE EQUIPMENT, FORM 12.41—DISTRIBUTION.** The Authorization to Use Restricted Electronic Surveillance Equipment, Form 12.41, shall be distributed as follows:


- 1 - Commanding Officer, initiating unit.
- 1 - Bureau commanding officer.
- 1 - Initiating unit.
- 1 - Office of the Chief of Police.
- 1
- 4 - TOTAL

**AMENDMENTS:**

This order amends Sections 2/670.01, 2/670.41, 2/670.43 and adds Sections 3/568.05, 3/568.10, 3/568.15, 3/568.40, 5/12.41 and 5/12.42 of The Department Manual.

**AUDIT RESPONSIBILITY:**

Scientific Investigation Division shall monitor compliance with this directive, in accordance with the provisions of Department Manual Section 0/080.30.



DARYL F. GATES  
CHIEF OF POLICE

DISTRIBUTION "A"